

FIRST REGULAR SESSION

SENATE BILL NO. 307

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS DEMPSEY AND RUPP.

Read 1st time February 4, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1446S.011

AN ACT

To amend chapter 190, RSMo, by adding thereto fifteen new sections relating to ambulance service reimbursement allowance tax, with an expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 190, RSMo, is amended by adding thereto fifteen new
2 sections, to be known as sections 190.800, 190.803, 190.806, 190.809, 190.812,
3 190.815, 190.818, 190.821, 190.824, 190.827, 190.830, 190.833, 190.836, 190.839,
4 and 190.842, to read as follows:

**190.800. 1. Each ground ambulance service, except for any
2 ambulance service owned and operated by an entity owned and
3 operated by the state of Missouri, including, but not limited to any
4 hospital owned or operated by the board of curators, as defined in
5 chapter 172, RSMo, or any department of the state, shall, in addition to
6 all other fees and taxes now required or paid, pay an ambulance service
7 reimbursement allowance tax for the privilege of engaging in the
8 business of providing ambulance services in this state.**

9 **2. For the purpose of this section, the following terms shall
10 mean:**

11 **(1) "Ambulance", shall have the same meaning as such term is
12 defined in subdivision (2) of section 190.100;**

13 **(2) "Ambulance service", shall have the same meaning as such
14 term is defined in subdivision (3) of section 190.100;**

15 **(3) "Engaging in the business of providing ambulance services in
16 this state", accepting payment for such services;**

17 **(4) "Gross receipts", shall mean all amounts received by an**

18 ambulance service licensed under section 190.109, for its own account
19 from the provision of all emergency services, as defined in section
20 190.100, to the public in the state of Missouri, but shall not include
21 revenue from taxes collected pursuant to law, grants, subsidies
22 received from governmental agencies, or the value of charity care.

190.803. 1. Each ambulance service's reimbursement allowance
2 shall be based on its gross receipts using a formula set forth in rules
3 and regulations promulgated by the department of social services as
4 provided in section 190.839. The determination of tax due shall be the
5 monthly gross receipts reported to the department of revenue
6 multiplied by the tax rate established by rule by the department of
7 social services. Such tax rate may be a graduated rate based on gross
8 receipts and shall not exceed a rate of six percent per annum of gross
9 receipts.

10 2. Notwithstanding any other provision of law to the contrary,
11 any action respecting the validity of the rules promulgated pursuant to
12 this section or sections 190.815 or 190.839 shall be filed in the circuit
13 court of Cole County. The circuit court of Cole County shall hear the
14 matter as the court of original jurisdiction.

190.806. Each ambulance service shall keep such records as may
2 be necessary to determine the amount of its reimbursement
3 allowance. On or before the first day of October of each year, every
4 ambulance service shall submit to the department of revenue a
5 statement that accurately reflects such information as is necessary to
6 determine that ambulance service's reimbursement allowance
7 tax. Each licensed ambulance service shall report gross receipts to the
8 department of revenue. The department of revenue shall provide the
9 department of social services with the information that is necessary to
10 implement the provisions of sections 190.800 to 190.842. The
11 information obtained by the department of social services from the
12 department of revenue shall be confidential and any employee of the
13 department of social services who unlawfully discloses any such
14 information for any other purpose, except as authorized by law, shall
15 be subject to the penalties specified in section 32.057, RSMo.

190.809. 1. The director of the department of social services shall
2 make a determination as to the amount of ambulance service
3 reimbursement allowance tax due from each ambulance service.

4 2. The director of the department of social services shall notify
5 each ambulance service of the annual amount of its reimbursement
6 allowance tax on or before the first day of October each year. Such
7 amount may be paid in monthly increments over the balance of the
8 reimbursement allowance tax period, as defined in subsection 1 of
9 section 190.821.

10 3. The department of social services is authorized to offset the
11 federal reimbursement allowance tax owed by an ambulance service
12 against any MO HealthNet payment due that ambulance service, if the
13 ambulance service requests such an offset. The amounts to be offset
14 shall result, so far as practicable, in withholding from the ambulance
15 service an amount substantially equivalent to the assessment to be due
16 from the ambulance service. The office of administration and state
17 treasurer are authorized to make any fund transfers necessary to
18 execute the offset.

19 4. The department of social services may adjust the tax rate
20 quarterly on a prospective basis. The department of social services
21 may adjust more frequently for individual ambulance services if there
22 is a substantial and statistically significant change in their service
23 provider characteristics. The department of social services may define
24 such adjustment criteria by rule.

190.812. 1. Each ambulance service reimbursement allowance tax
2 determination shall be final after receipt of written notice from the
3 department of social services, unless the ambulance service files a
4 protest with the director of the department of social services setting
5 forth the grounds on which the protest is based, within thirty days
6 from the date of receipt of written notice from the department of social
7 services to the ambulance service.

8 2. If a timely protest is filed, the director of the department of
9 social services shall reconsider the determination and, if the ambulance
10 service has so requested, the director or the director's designee shall
11 grant the ambulance service a hearing to be held within forty-five days
12 after the protest is filed, unless extended by agreement between the
13 ambulance service and the director. The director shall issue a final
14 decision within forty-five days of the completion of the hearing. After
15 reconsideration of the reimbursement allowance determination and a
16 final decision by the director of the department of social services, an

17 ambulance service's appeal of the director's final decision shall be to
18 the administrative hearing commission in accordance with section
19 208.156, RSMo, and section 621.055, RSMo.

190.815. The director of the department of social services shall
2 prescribe by rule the form and content of any document required to be
3 filed under sections 190.800 to 190.839. By November 30, 2009, the
4 department of social services shall promulgate regulations to
5 implement the provisions of section 190.833.

190.818. 1. The ambulance service reimbursement allowance tax
2 owed, or, if an offset has been requested, the balance, if any, after such
3 offset, shall be remitted by the ambulance service to the department of
4 social services. The remittance shall be made payable to the director
5 of the department of revenue. The amount remitted shall be deposited
6 in the state treasury to the credit of the "Ambulance Service
7 Reimbursement Allowance Fund", which is hereby created for the sole
8 purpose of providing payments to ambulance services. All investment
9 earnings of the ambulance service reimbursement allowance fund shall
10 be credited to the ambulance service reimbursement allowance
11 fund. The unexpended balance in the ambulance service
12 reimbursement allowance fund at the end of the biennium is exempt
13 from the provisions of section 33.080, RSMo. The unexpended balance
14 shall not revert to the general revenue fund, but shall accumulate in
15 the ambulance service reimbursement allowance fund from year to
16 year.

17 2. An offset as authorized by this section or a payment to the
18 ambulance service reimbursement allowance fund shall be accepted as
19 payment of the ambulance service's obligation imposed by section
20 190.800.

21 3. The state treasurer shall maintain records that show the
22 amount of money in the ambulance service reimbursement allowance
23 fund at any time and the amount of any investment earnings on that
24 amount. The department of social services shall disclose such
25 information to any interested party upon written request.

190.821. 1. An ambulance service reimbursement allowance tax
2 period as provided in sections 190.800 to 190.839 shall be from the first
3 day of October to the thirtieth day of September. The department shall
4 notify each ambulance service with a balance due on the thirtieth day

5 of September of each year the amount of such balance due. If any
6 ambulance service fails to pay its ambulance service reimbursement
7 allowance tax within thirty days of such notice, the reimbursement
8 allowance shall be delinquent. The reimbursement allowance tax may
9 remain unpaid during an appeal or as allowed in section 190.812.

10 2. Except as otherwise provided in this section, if any
11 reimbursement allowance tax imposed under section 190.800 for a
12 previous reimbursement allowance tax period is unpaid and delinquent,
13 the department of social services may proceed to enforce the state's
14 lien against the property of the ambulance service and to compel the
15 payment of such reimbursement allowance tax in the circuit court
16 having jurisdiction in the county where the ambulance service is
17 located. In addition, the director of the department of social services
18 or the director's designee may cancel or refuse to issue, extend, or
19 reinstate a MO HealthNet participation agreement to any ambulance
20 service which fails to pay such delinquent reimbursement allowance
21 tax required by section 190.800 unless under appeal as allowed in
22 section 190.812.

23 3. Except as otherwise provided in this section, failure to pay a
24 delinquent reimbursement allowance tax imposed under section 190.800
25 shall be grounds for denial, suspension, or revocation of a license
26 granted under this chapter. The director of the department of social
27 services may notify the department of health and senior services to
28 deny, suspend, or revoke the license of any ambulance service which
29 fails to pay a delinquent reimbursement allowance tax unless under
30 appeal as allowed in section 190.812.

190.824. Nothing in sections 190.800 to 190.839 shall be deemed
2 to affect or in any way limit the tax-exempt or nonprofit status of any
3 ambulance service granted by state or federal law.

190.827. The department of social services shall make payments
2 to those ambulance services that have a valid MO HealthNet
3 participation agreement with the department. The ambulance service
4 reimbursement allowance shall not be used to supplant, and shall be in
5 addition to, general revenue payments to ambulance services.

190.830. If the family support division is unable to make a
2 determination regarding MO HealthNet eligibility for a patient within
3 sixty days of the submission of a completed application for medical

4 assistance for services of an ambulance service, the patient shall be MO
5 HealthNet eligible until the application is approved or
6 denied. However, in no event shall benefits be construed to commence
7 prior to the date of application.

190.833. The requirements of sections 190.800 to 190.836 shall
2 apply only so long as the revenues generated under section 190.800 are
3 eligible for federal financial participation as provided in sections
4 190.800 to 190.839 and payments are made under section 190.800. For
5 the purpose of this section, "federal financial participation" is the
6 federal government's share of Missouri's expenditures under the MO
7 HealthNet program. Notwithstanding anything in this section to the
8 contrary, in the event federal financial participation is either denied,
9 discontinued, reduced in excess of five percent per year, or no longer
10 available for the revenues generated under section 190.800, the director
11 of the department of social services shall cause disbursement of all
12 funds held in the ambulance service reimbursement allowance fund to
13 be made to all ambulance services in accordance with regulations
14 promulgated by the department of social services, along with a full
15 accounting of such disbursements, within forty-five days of receipt of
16 notice thereof by the department of social services.

190.836. The ambulance service reimbursement allowance tax
2 provided in section 190.800 shall not be imposed prior to the effective
3 date of rules promulgated by the department of social services, but in
4 no event prior to October 1, 2009.

190.839. No rules implementing sections 190.800 to 190.839 may
2 be filed with the secretary of state without first being provided to
3 interested parties registered on a list of such parties to be maintained
4 by the director of the department of social services. Rules shall be
5 provided to all interested parties seventy-two hours prior to being filed
6 with the secretary of state. Any rule or portion of a rule, as that term
7 is defined in section 536.010, RSMo, that is created under the authority
8 delegated in sections 190.800 to 190.839 shall become effective only if
9 it complies with and is subject to all of the provisions of chapter 536,
10 RSMo, and, if applicable, section 536.028, RSMo. Sections 190.800 to
11 190.839 and chapter 536, RSMo, are nonseverable and if any of the
12 powers vested with the general assembly pursuant to chapter 536,
13 RSMo, to review, to delay the effective date, or to disapprove and annul

14 a rule are subsequently held unconstitutional, then the grant of
15 rulemaking authority and any rule proposed or adopted after August
16 28, 2009, shall be invalid and void.

190.842. Sections 190.800 to 190.842 shall expire on September 30,
2 2011.

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